

## REMARKS

The Office Action mailed on July 27, 2005 has been carefully considered, and the Examiner's comments are appreciated. Claims 13-15 have been canceled. No new matter has been added, with the amendments supported by the Specification, claims, and the drawings.

### Discussion of Restriction Requirement

The Examiner required restriction between Species A (suggested as being characterized by Figures 1-3), Species B (Figures 4-5), and Species C (Figures 6-7). In response to the restriction requirement, Applicants elect with traverse Species B illustrated in Figures 4-5, including claims 1-9, 11, and 16-21. Of these claims, claims 1-9 and 11 are generic. Claims 10 and 12 are withdrawn as reading upon Figure 3 of Species A. And claim 22 is withdrawn as reading upon Figures 6 and 7 of Species C. Therefore claims 1-9, 11, and 16-21 are presented here for consideration.

The restriction requirement is traversed because Applicants respectfully submit that the alleged Species A, B, and C are not in fact species of a generic invention. Figures 1 and 2 illustrate the generic invention (i.e. claim 1) as having:

- (1) a single set of telescoping cylindrical rings (paraphrased), and
- (2) means for releasably securing the set of rings in a telescopically extended upright configuration.

Figure 3 illustrates one particular species of the “means for releasably securing,” which is described as a click-lock mechanism. Figures 4 and 5, however, illustrate an embodiment having two sets of the elements (1) and (2) of the generic invention above, along with an additional element (bladder). In other words, the embodiment shown in Figures 4-5 includes all the elements of the generic invention (i.e. elements (1) and (2) above), plus additional elements (i.e. a second set of elements (1) and (2) above). Therefore, Applicants submit that the proper characterization of the relationship between the claims of Figures 1-2 and the claims of Figures 4-5 is as subcombination and combination claims, and not genus and species. Described another way, if the generic invention comprises elements  $AB$ , then Species A comprises elements  $AB'$ . But Species B comprises elements  $ABC$ , and Species C comprise elements  $ABD$ . As such, Figure 3 (Species A), Figures 4-5 (Species B), and Figures 6-7 (Species C) cannot be independent species of a generic claim. It is appreciated that the click-lock mechanism shown in Figure 3 (Species A) may be used as the preferred means for releasably securing each of the two sets of cylindrical rings shown in Figures 4-5, as well as the single set of cylindrical rings shown in Figures 6-7. Therefore, the alleged “Species A” embodied by the click-locks is usable together (i.e. they are connected in design, operation, or effect) with the alleged “Species B” or even “Species C”, and is simply one preferred method of releasably securing the cylindrical rings together. As such, Applicants respectfully request reconsideration of the restriction requirement.

Discussion of the Rejections Under 35 USC §112, second paragraph

The Examiner rejected claims 1-9, 11, and 16-21 as being indefinite because of the terms “high-strength” and/or “low-density”. Applicants submit, however, that the term “high strength” is described in the Specification (page 9, paragraph [0021]) and in the claims as pertaining to a material construction capable of substantially inhibiting blast effects from passing therethrough. In other words, the strength of the material is suitably high to substantially inhibit blast effects from passing therethrough. And “low-density” material construction is also described in the Specification on page 9, paragraph [0021] as being a type which allows investigative radiography through the walls of the blast shield. Applicants respectfully submit that these and other descriptions in the Specification provide the standard to enable one of ordinary skill in the art to be apprised of the scope of the invention.

The Examiner rejected claims 5 and 7 as being indefinite because of the terminology in parenthesis. Applicants submit that “the handle-associated ring” and “the foot-hold-associated ring” have antecedent basis in the preceding language associating the handle with one of the rings, or the foot hold with one of the rings. However, to avoid confusion, the terminology in parenthesis have been deleted. The term “inner” has been replaced with “innermost,” and the term “outer” has been replaced with “outermost,” with reference to “said rings” in claim 5, referring to the set of cylindrical rings.

### Allowable Subject Matter

The Examiner stated that claims 16-21 would be allowable if rewritten to overcome the rejections 35 USC §112, second paragraph. Applicants respectfully submit that the rejections have been overcome as per the above discussion. Therefore Applicants respectfully request allowance of claims 16-21.

### Discussion of the Rejections Under 35 USC §102

The Examiner rejected claims 1, 5-7, and 11 are rejected under 35 USC §102(b) as being anticipated by U.S. Pat. No. 1, 297,455 to Fimiani, or in the alternative by U.S. Pat. No. 1,277,706 to Dorfman. Regarding independent claim 1, Applicants respectfully submit that neither the Fimiani or Dorfman reference anticipates the present invention because each and every element in the claim is not expressly or inherently described in a single prior art reference, as required by MPEP §2131. Contrary to the Examiner's assertion that Fimiani and Dorfman disclose "*at least two telescoping cylindrical rings*," an examination of the figures in Fimiani and Dorfman clearly indicates that cylindrical rings are not used. In Fimiani, for example, Figure 1 shows a semicircular front section 1 with a series of semicircular movable sections 8 attached to it in telescoping fashion. In Dorfman also the telescoping portions are configured as curved plates, but are not complete rings. This is clearly not the set of telescoping cylindrical rings which together enclose a space in a lateral direction as in the present invention. This is an important distinction since a semicircular structure cannot completely enclose a

space in a lateral direction, and thus cannot provide complete lateral shielding from a blast which sends projectiles/shrapnel in all directions. The only circular or otherwise ring-shaped structure in Fimiani or Dorfman is the leather belt 9 in Dorfman, which of course is not for used for shielding purposes. Applicants respectfully submit, therefore, that the 102 based rejections against independent claim 1 was in error as not having each and every element in the claim either expressly or inherently described in a single prior art reference, as required by MPEP §2131. Furthermore, Applicants submit that claims 5-7 and 11 are also allowable as being dependent on an allowable claim.

Discussion of Rejections under 35 USC §103(a)

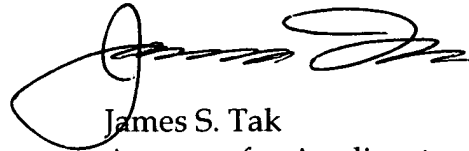
The Examiner rejected claims 2-3 as being unpatentable over Fimiani in view of U.S. Pat. No. 3,739,731 to Tabor, claim 4 as being unpatentable over Fimiani in view of U.S. Pat. No. 4,376,489 to Clemens, and claims 8-9 as being unpatentable over Fimiani in view of U.S. Pat. No. 4,245,546 to Chaires or U.S. Pat. No. 1,281,400 to Larnell. Applicants respectfully submit that these rejections are also overcome as per above discussion, since the cited references do not teach or suggest all claim limitations as required by MPEP §2143.03 as follows in part:

*“To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art”*

Summary

Applicants therefore respectfully submits that claims 1-9, 11, and 16-21 are in condition for allowance, and requests allowance of claims 1-9, 11, and 16-21. In the event that the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, he is respectfully requested to initiate the same with the undersigned at (925) 422-7274.

Respectfully submitted,



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